

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, JUNE 9, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:36 p.m. Present: Council Chairperson Camp; Council Members: Cook, McRoy, Newman, Svoboda, Werner, Joan Ross, City Clerk. Absent: Friendt.

Council Chair asked all present to stand and recite the Pledge of Allegiance and reflect for a moment of silent meditation.

**READING OF THE MINUTES**

COOK Having been appointed to read the minutes of the City Council proceedings of June 2, 2003, reported having done so, found same correct.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

**PUBLIC HEARING**

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE RELATING TO LEAVES OF ABSENCE WITHOUT PAY TO REFLECT CURRENT PROCEDURES AND TO DISABILITY RETIREMENT TO MAKE THE PROVISIONS CONSISTENT WITH THE AMERITAS PLAN DOCUMENT;

AMENDING ORDINANCE NO. 18048 RELATING TO PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER E BY AMENDING THE PAY RANGE FOR THE JOB CLASSIFICATION OF EXECUTIVE SECRETARY;

AMENDING ORDINANCE 18047 RELATING TO THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER A BY CREATING THE JOB CLASSIFICATION OF ASSISTANT SANITARY ENGINEER AND DELETING THE JOB CLASSIFICATIONS OF PROGRAM SUPERVISOR, ASST. CHIEF - DIVISION OF ENVIRONMENTAL HEALTH, AND STAFF DEVELOPMENT COORDINATOR;

APPROVING THE AMENDED AND RESTATED PLAN DOCUMENT FOR THE 457 DEFERRED COMPENSATION PLAN WITH AMERITAS, AS REVISED FOR IRS COMPLIANCE - Don Taute, City Attorney, came forward to answer any potential questions that Council may have.

This matter was taken under advisement.

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 46.22 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-91, 03R-141, 03R-142);

CHANGE OF ZONE 3362 - APPLICATION OF RIDGE DEVELOPMENT COMPANY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-90, 03R-141, 03R-142);

APPROVING AN ANNEXATION AGREEMENT BETWEEN RIDGE DEVELOPMENT COMPANY AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 46.22 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-90, 03-91, 03R-142);

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF BIG THOMPSON CREEK CONSISTING OF 158 RESIDENTIAL LOTS AND 4 OUTLOTS WITH WAIVERS TO THE REQUIRED BLOCK LENGTH, PEDESTRIAN EASEMENT WHERE A BLOCK EXCEEDS 1000 FEET, 3% GRADE INTERSECTION APPROACH, SANITARY SEWER FLOW, AND LOT LINES NOT PERPENDICULAR TO RIGHT-OF-WAY LINES ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-90, 03-91, 03R-141) - Kent Seacrest, Attorney, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, representing Ridge Development and Southview, Inc. on 157 residential lots near Thompson Creek and Campbell's Nursery. Staff is in agreement with our Change of Zone and our preliminary plat. The Planning Commission unanimously supported these various actions as well. Mr. Seacrest presented a hand out with regard to the impact fees. He stated that if impact fees are found legal, we don't have a problem, because we will comply with the ordinance. With the lawsuits at hand, we will have many agreements in the next four years and we may need to use this negotiated exaction technique. The fixed exaction system is still the City's backup system, meaning it will be basically the 2004 impact fee amount and then

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subsequently you now have a new clause that says the developer reserves the right to sue the City for the fixed exaction fee amount. So we seem to be developing a system where we are encouraging or at least not discouraging a second law suit or a series of law suits every time. Mr. Seacrest requested a motion to amend, which basically is doing a couple of things, but the main thing it does is say the developer has to put the hard cash up at the time of final platting, which is the same amount that is collected through impact fees. Builders will continue to pay the impact fee to the city and developers will put up a similar amount at the time of final platting. A better technique is to escrow the second pot of money, so we will promise to pay it if impact fees are found to be illegal.

Councilman Cook asked if Mr. Seacrest was aware of the substitute from city staff to allow the provision to allow escrowing. Mr. Seacrest replied that his was a little different wording that didn't allow for the money to be drawn until impact fees were found to be illegal.

Rick Peo, City Attorney's office, came forward to answer questions posed by Councilman Werner. He agreed that through the agreements the concept was to share the risk and get a safety net and an opportunity to collect some money. We are trying to develop a policy that would be consistent and we felt it was better to get a contribution based upon a percentage of the impact fee based upon the study ratio, rather than site specific off-site improvements.

Councilman Cook asked about the issue of not collecting anything at all if the impact fee ordinance to be invalid and the fee schedule invalid and if it would be possible to still collect some site related dollars. Mr. Peo stated none of the agreements were challenging site related improvements, they are only talking about impact fee improvements. He stated that we are always faced with the potential of lawsuit. Mr. Cook asked about going through the negotiations, having an applicant sign the contract and what would the odds would be to go to court and get that nullified later? Mr. Peo agreed that is likely true. He stated he felt the City had a good basis for the impact fee ordinance and the annexation contribution requirements we are imposing. The City does not want new growth occurring in these areas until we have the funds available to provide that infrastructure, that is what we are trying to avoid coming to that conclusion.

Council Chair Camp asked about being able to attach the impact fees to reimburse the City for the expenses it incurred. Mr. Peo stated he wasn't sure if the escrow that Mr. Seacrest proposed was unreasonable. He stated if we take the impact fees that we collect and spend them, and if the court holds this invalid and people paid under protest, we would probably have to refund that money. Mr. Camp asked Mr. Seacrest about calculating the impact fees based upon the 2004 schedule. Mr. Camp queried if some of the fees extend into the 2005, 2006, this might be more, but it is just an assumption for purposes of presentation. Mr. Seacrest affirmed that.

Mr. Cook asked how likely is it that the impact fee schedule will be upheld. Mr. Peo stated that we would have to show benefit to the fee payor and what he pays cannot exceed the cost of the improvements that you are charging him for. Mr. Peo stated that there are no Nebraska cases on this type of methodology. He informed Council that what we are charging is very low in proportion to what the analyzed cost is.

Mr. Seacrest stated that the system would allow you to go five to six miles away from my site. Impact fees have been found to be flawed. The case law we do know is in the special assessment area, where you do have authority from the State of Nebraska, and you loan money, they find this very narrowly of where the benefit is. And the City has lost the vast majority of suits, because they can't prove special benefit. Nebraska is not a progressively liberal state in land use area. So there is a chance they might apply something similar to the special assessment theory here, in any case, we can't even special assess the arterial road next to our property.

Councilman Werner stated we are assessing at 25% or less of the study, and questioned if the City's risk would go up as time goes on and after five years we are at fifty percent. Mr. Seacrest stated we would have to ask ourselves if one-size fits every property out there. Mr. Werner asked Mr. Peo if the Duncan study has been challenged or if the prior methodology was challenged and if so, what findings did the court have? Mr. Peo stated that the court will say if the study and method is reasonable, we will go by it. He also stated he was not aware of the Duncan study being specifically challenged. Councilman Werner asked about the things that have not been included such as Police, Fire,

Schools, Libraries, etc. Mr. Peo indicated that those particular items could not be included. Mr. Werner stated that he was challenging the development community to drop their lawsuits and let us move forward together to work this problem out. Mr. Seacrest stated that he was not a member of that lawsuit, nor were his clients.

Councilman Cook stated that the way we have this separated out, there are some impact fee related improvements that would normally be part of the negotiated package and under the old method. The amounts at risk are the arterial streets, water lines, sewer lines, parks. We could be collecting for the nearby arterial street, but instead it gets lumped into the at risk impact fee portion of our annexation agreement rather than simply being an agreed part of an exaction negotiation. Mr. Cook questioned Mr. Peo if we should just continue on a parallel track here, have impact fee ordinance, wait until it is sooner or later declared to be valid or invalid and at the same time continue doing the things we have always done that we feel very confident about and doing individual negotiations. Mr. Peo responded that it works that we are sharing risks, but we are not identifying the true and full cost of that new development.

Council Chair Camp asked Mr. Peo about what Mr. Seacrest is proposing and with the other annexation agreements that are in a state of limbo, what would the proposals do to the others? Mr. Peo stated you could just go forward as is, or could renegotiate, or hold in limbo until we have a different agreement. We have tried in good faith with Mr. Hunzeker and get his clients moving forward and I don't know what their desires would be.

Mr. Seacrest returned for rebuttal. We were asked when this first came up what our solution was, we did come forward months ago and said that this in our opinion wasn't the most prudent city policy to follow. The second thing is you have had 33 infrastructure agreements that have come forward with that finding of rough proportionality and nexus and not one of them has sued you. So there is a good track record there. If the City is successful on the impact fee, you will be able to charge what you deem the cost of development to be. But if you are not successful with that suit, the court is telling you didn't do something correctly, that you don't have the authority or it is a tax, or your study was flawed. The bottom line is that you will have wished you would have negotiated and gotten some money. If this takes two to four years through the State Supreme Court to figure out, think of how many agreements could get a free lunch on this thing and what are you going to say to your constituents, raise taxes or not develop.

This matter was taken under advisement.

CHANGE OF ZONE 3290 - APPLICATION OF CARL R. SCHMIDT FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-1 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT OLD CHENEY ROAD AND FRONTIER ROAD. (In connection w/03R-145); ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF FRONTIER MEADOWS CONSISTING OF 3 RESIDENTIAL LOTS WITH WAIVERS TO THE REQUIRED STREET PAVING AND STORMWATER DRAINAGE ON PROPERTY GENERALLY LOCATED AT OLD CHENEY ROAD AND FRONTIER ROAD. (In connection w/03-92)- Kent Seacrest, Attorney, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, representing Carl Schmidt. Mr. Seacrest requested a week extension of public hearing and have second and third reading be next week. Public Works would like to challenge one of the waivers.

Roger Figard, Public Works & Utilities, came forward and stated he had no problem with the delay. He wanted to make sure it went into the record that Public Works would be asking the Council on Item #16 to not approve the waiver of the urban public street design standards.

This matter was taken under advisement.

APPROVING BREWSKY'S FOOD AND SPIRITS AT 201 NORTH 8TH STREET AS A KENO SATELLITE SITE - John Hewitt, Big Red Keno, came forward in favor of this matter.

This matter was taken under advisement.

APPROVING AN EXTENSION OF TIME FOR INSTALLATION OF SIDEWALKS AND STREET TREES IN THE ASPEN 5TH ADDITION FINAL PLAT ON PROPERTY GENERALLY LOCATED AT BEAVER CREEK LANE AND PINE LAKE ROAD. (In connection w/03R-144); APPROVING AN EXTENSION OF TIME FOR INSTALLATION OF SIDEWALKS AND STREET TREES IN THE ASPEN 6TH ADDITION FINAL PLAT ON PROPERTY GENERALLY LOCATED AT CARMEN DRIVE AND EAGLE RIDGE ROAD. (In connection w/03R-143) - Tom

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Cajka, Planning Dept., came forward and handed out colored maps to indicate which areas had sidewalks and which did not.

Brian Carstens, 601 Old Cheney Rd., Suite C, representing Krein Real Estate, came forward stating his client was willing to compromise and put the sidewalks in, however the timing of such would be better after the homes are built.

Councilman Cook asked about the width of the average driveway. Mr. Carstens stated it was probably 16'. Mr. Cook wanted to know why the need to wait on installing the sidewalks. Mr. Carstens stated he took exception to that, due to having to hook up the sewer and water and since the water main is under the sidewalk, it would have to be torn up to get it hooked up. These sidewalks are not located in the usual spot and are private roadways.

Council Chair Camp asked how long a time extension was needed. Mr. Carstens indicated that two years would be helpful.

Mr. Cook stated that the developer is already 10 months overdue on this and what happens if these lots aren't sold in two years. Mr. Carstens said that four years was a normal time period.

Council Chair Camp indicated that there are two proposed modifications offered to complete the sidewalk on the south side of Eagle Ridge Road and the second is possible not have an extension go for as long as two years. Mr. Camp asked if there was a minimum amount you think is necessary if the council did not choose to go that length of time? Mr. Carstens replied that 12 to 18 months would be helpful.

Mike Morosin, 2055 "S" St., came forward and asked what the ramifications are if the sidewalks are not installed in two years. Mr. Camp explained to Mr. Morosin that the city typically installed stubs and then that process is assessed back to the property.

Mr. Cajka returned to state that Planning Dept. had recommended denial of this waiver, due to the fact that the sidewalks are past due.

Ray Hill, Planning Dept. came forward and explained that the new system had caught this as being delinquent and not having their sidewalks installed within the given time and they are 10 months behind in fulfilling their obligations.

Mr. Carstens returned for rebuttal. Surety was originally posted for Aspen 5<sup>th</sup> and 6<sup>th</sup> to guarantee the sidewalks. If the client would not fulfill that, the city has the authority to take that surety and use that money to install the sidewalks and it would not be assessed back to those property owners.

This matter was taken under advisement.

APPROVING AN ANNEXATION AGREEMENT BETWEEN PINE LAKE DEVELOPMENT L.L.C., STANLEY L. PORTSCHE AND GRACE A. PORTSCHE, MID-AMERICAN UNION CONFERENCE ASSOCIATION OF SEVENTH DAY ADVENTISTS, AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 41 ACRES OF PROPERTY GENERALLY LOCATED WEST OF 84<sup>TH</sup> STREET AND NORTH OF HIGHWAY 2, AND RESCINDING RESOLUTION NO. A-82079. (In connection w/03-21, 03-22, 03R-26, 03R-27) - Mark Hunzeker, 530 S. 13<sup>th</sup> St., Suite B, representing Pine Lake Plaza, came forward and requested an amendment to the resolution, that would use the same language that was in the Big Thompson Creek annexation agreement.

Councilman Cook asked if there was any amount of money that would be appropriate to pay. Mr. Hunzeker replied it was difficult to impose obligations for offsite arterial streets and offsite oversized sewer and water improvements in any case. We have agreed that we would not challenge an imposition of a charge for that signal. Mr. Cook also asked Mr. Hunzeker if he was interested in an alternative such as Mr. Seacrest had proposed earlier in the meeting. Mr. Hunzeker indicated that he was not interested. Mr. Hunzeker did request that the items on pending be removed and that Council waive their rules to have action on this date.

Rick Peo, City Attorney, came forward to answer questions directed from Councilman Cook. Mr. Cook asked if the City was now comfortable with these signed agreements on annexation. Mr. Peo indicated that he was.

Council Chair Camp asked why a single template approach would not be appropriate. Mr. Peo replied that if you go with the "Hunzeker version", Mr. Seacrest said he will sign that, that could be the template.

Mr. Hunzeker returned for rebuttal stating that they had negotiated this agreement in good faith.

This matter was taken under advisement.

ADOPTING A CITY OF LINCOLN POLICY FOR MAINTAINING A PRUDENT MINIMUM GENERAL FUND RESERVE - Don Herz, Director of Finance, came forward to explain the reasons for adopting this policy. This came about as a result of the city wanting to issue its general obligation bonds in the amount of \$19.5 million and one of the rating agencies asked if we could put our policy in writing.

Council Chair Camp explained that a prudent minimum general fund balance to be 15% of operating budget.

Bill Giovanni, Ameritas, came forward and explained that rating agencies change policies over time and they are simply asking that many governments have experienced difficulty in hard economic times and have spent down their cash reserves. The maintenance of cash reserves as the City of Lincoln has exhibited over the last twelve years is very laudable. The rating agencies want to see the policies memorialized.

Councilman Svoboda asked that because this is in the form of a resolution, if it binds a future council or future administration from, in the case of an emergency, going less than the 15%? Further, do we just risk a bond rating at that time? Mr. Giovanni replied that there is a provision within the resolution that if the City were to not meet that provision, that there is a three year cure period to build it back up. Mr. Herz added that this is not an ordinance setting it as law, it is the City's intent to abide by these guidelines. Mr. Svoboda asked if other cities had the three year cure period and if this was a typical average. Mr. Giovanni stated it was something new to this resolution, to increase the flexibility of the resolution.

Council Chair Camp asked if this would improve the city's bond rating. Mr. Herz indicated that perhaps that could happen. Mr. Giovanni indicated that is determined by other factors as well.

This matter was taken under advisement.

BREAK 3:22 P.M.

RECONVENED 3:37 P.M.

MISCELLANEOUS BUSINESS - NONE

\*\* END OF PUBLIC HEARING \*\*

## COUNCIL ACTION

LIQUOR RESOLUTIONS - NONE

ORDINANCES - 2ND READING

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE RELATING TO LEAVES OF ABSENCE WITHOUT PAY TO REFLECT CURRENT PROCEDURES AND TO DISABILITY RETIREMENT TO MAKE THE PROVISIONS CONSISTENT WITH THE AMERITAS PLAN DOCUMENT - CLERK read the following ordinance, introduced by Annette McRoy, amending Chapter 2.76 of the Lincoln Municipal Code relating to leaves of absence without pay to reflect current procedures and to disability retirement to make the provisions consistent with the Ameritas plan document, the second time.

AMENDING ORDINANCE NO. 18048 RELATING TO PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER E BY AMENDING THE PAY RANGE FOR THE JOB CLASSIFICATION OF EXECUTIVE SECRETARY - CLERK read the following ordinance, introduced by Annette McRoy, amending ordinance no. 18048 relating to pay schedules of employees whose classifications are assigned to the pay range prefixed by the letter E by amending the pay range for the job classification of Executive Secretary, the second time.

AMENDING ORDINANCE 18047 RELATING TO THE PAY SCHEDULES OF EMPLOYEES WHOSE

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CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER A BY CREATING THE JOB CLASSIFICATION OF ASSISTANT SANITARY ENGINEER AND DELETING THE JOB CLASSIFICATIONS OF PROGRAM SUPERVISOR, ASST. CHIEF - DIVISION OF ENVIRONMENTAL HEALTH, AND STAFF DEVELOPMENT COORDINATOR - CLERK read the following ordinance, introduced by Annette McRoy, amending Ordinance 18047 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter A by creating the job classification of assistant sanitary engineer and deleting the job classifications of Program Supervisor, Asst. Chief - Division of Environmental Health, and Staff Development Coordinator, the second time.

APPROVING THE AMENDED AND RESTATED PLAN DOCUMENT FOR THE 457 DEFERRED COMPENSATION PLAN WITH AMERITAS, AS REVISED FOR IRS COMPLIANCE - CLERK read the following ordinance, introduced by Annette McRoy, approving the amended and restated plan document for the 457 deferred compensation plan with Ameritas, as revised for IRS compliance, the second time.

REPEALING ORDINANCE NO. 17993 WHICH CREATED RE-PAVING DISTRICT NO. 154 IN SAUNDERS AVE., 12TH ST. TO 14TH STREET - CLERK read the following ordinance, introduced by Annette McRoy, repealing Ordinance No. 17993 which created re-paving district no. 154 in Saunders Ave., 12<sup>th</sup> St. to 14<sup>th</sup> Street, the second time.

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 46.22 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-91, 03R-141, 03R-142) - CLERK read the following ordinance, introduced by Annette McRoy, amending the corporate limits of the city by annexing approximately 46.22 acres of property generally located northeast of the intersection of South 56<sup>th</sup> Street and Yankee Hill Road, the second time.

CHANGE OF ZONE 3362 - APPLICATION OF RIDGE DEVELOPMENT COMPANY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-90, 03R-141, 03R-142) - CLERK read the following ordinance, introduced by Annette McRoy, for a change of zone 3362, the application of Ridge Development Company for a change of zone from AG Agricultural to R-3 Residential on property generally located northeast of the intersection of South 56<sup>th</sup> Street and Yankee Hill Road, the second time.

CHANGE OF ZONE 3290 - APPLICATION OF CARL R. SCHMIDT FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-1 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT OLD CHENEY ROAD AND FRONTIER ROAD. (In connection w/03R-145) - CLERK read the following ordinance, introduced by Annette McRoy, for a Change of Zone 3290, the application of Carl R. Schmidt for a change of zone from AGR Agricultural Residential to R-1 Residential on property generally located at Old Cheney Road and Frontier Road, the second time.

**RESOLUTIONS**

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPARTMENT OF ROADS FOR CONTRIBUTION TO FUND THE LOCATION, FEASIBILITY STUDY AND AN ENVIRONMENTAL DOCUMENT ON U.S. HIGHWAY 6 BETWEEN CORNHUSKER HIGHWAY AND WEST O STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82128 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. NH-6-6(154) for a Feasibility Study and an Environmental Document on U.S. Highway 6 between Cornhusker Highway and West O Street, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp,

Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

AUTHORIZING THE MAYOR TO EXECUTE A MULTI-YEAR CONTRACT WHEN FUNDING COMES FROM MORE THAN ONE FISCAL YEAR C.I.P. BUDGET FOR THE PIONEERS PUMPING STATION PROJECT - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82129 WHEREAS, the Lincoln Water System has identified the Pioneers Pumping Station project as in the public best interest to provide adequate water supply and pressure to Pioneers Park, Lincoln Correctional Center, Timber Ridge, Roper School, Crete Carriers, and the Future Southwest Growth Area; and

WHEREAS, the current fiscal year 2003 has identified \$600,000 of CIP funds for the project and the remaining funding in the amount of \$1,000,000 will be available in the fiscal 2004 C.I.P. budget; and

WHEREAS, Central Contracting is the successful low bidder for the Pioneers Pumping Station project to be paid for from appropriations from fiscal years 2003 and 2004; and

WHEREAS, Article VII, Section 3 of the Charter of the City of Lincoln provides that no contract involving the expenditure of money from appropriations of more than one year, other than appropriations of borrowed money, shall be valid unless approved by ordinance or resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Mayor is authorized to execute a contract or contracts between the City of Lincoln, Nebraska and the lowest responsible bidder or bidders for the Pioneers Pumping Station to be paid from fiscal years 2003 and 2004.

Introduced by Ken Svoboda

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING BREWSKY'S FOOD AND SPIRITS AT 201 NORTH 8TH STREET AS A KENO SATELLITE SITE - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82130 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of keno type lottery with Lincoln's Big Red Keno, Ltd., a Nebraska limited partnership; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of Brewsky's Food & Spirits, 201 North 8th Street, Lincoln, NE 68501.

The City Clerk is directed to return an executed copy of this Resolution to Brewsky's Food & Spirits, and a copy to Lincoln's Big Red Keno, Ltd.

Introduced by Ken Svoboda

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING AN ANNEXATION AGREEMENT BETWEEN RIDGE DEVELOPMENT COMPANY AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 46.22 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD. (In connection w/03-90, 03-91, 03R-142) - PRIOR to reading:

SVOBODA Moved to delay action on Bill No. 03R-141 for one week to 6/16/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF BIG THOMPSON CREEK CONSISTING OF 158 RESIDENTIAL LOTS AND 4 OUTLOTS WITH WAIVERS TO THE REQUIRED BLOCK LENGTH, PEDESTRIAN EASEMENT WHERE A BLOCK EXCEEDS 1000 FEET, 3% GRADE INTERSECTION APPROACH, SANITARY SEWER FLOW, AND LOT LINES NOT

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PERPENDICULAR TO RIGHT-OF-WAY LINES ON PROPERTY GENERALLY LOCATED  
NORTHEAST OF THE INTERSECTION OF SOUTH 56TH STREET AND YANKEE HILL ROAD.  
(In connection w/03-90, 03-91, 03R-141) - PRIOR to reading:

SVOBODA Moved to delay action on Bill No. 03R-141 for one week to 6/16/03.  
Seconded by Newman & carried by the following vote: AYES: Camp,  
Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING AN EXTENSION OF TIME FOR INSTALLATION OF SIDEWALKS AND STREET TREES  
IN THE ASPEN 5TH ADDITION FINAL PLAT ON PROPERTY GENERALLY LOCATED AT  
BEAVER CREEK LANE AND PINE LAKE ROAD. (In connection w/03R-144) - PRIOR  
to reading:

WERNER Moved to amend Bill No. 03R-143 in the following manner:  
Line 17 should read: the plat, is hereby waived to allow an  
additional two year period for the installation ~~of said improvement of~~  
street trees and an additional one year period for the installation of  
sidewalks, except that sidewalks shall be constructed along the south  
side of Eagle Ridge Road between Beaver Creek Lane and Sugar Creek Road  
within 45 days.

Seconded by Cook & carried by the following vote: Camp, Cook,  
McRoy, Svoboda, Werner; NAYS: Newman; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Ken Svoboda, who  
moved its adoption:

A-82131 WHEREAS, the Final Plat of Aspen 5th Addition was previously  
approved by the City of Lincoln; and

WHEREAS, the conditions of approval of said Final Plat included  
the requirement that the subdivider install sidewalks and street trees  
along all streets within said Aspen 5th Addition Final Plat within four  
years of approval of said Plat; and

WHEREAS, applicant has requested a modification to waive said  
requirement pursuant to § 26.31.010 of the Lincoln Municipal Code to  
allow a two year extension of time for the installation of said  
improvements; and

WHEREAS, the Planning Commission has reviewed said request and  
has recommended denial of the extension of time for installation of  
sidewalks and approval of the extension of time to install street trees;  
and

WHEREAS, the City Council finds that the strict application of all  
requirements would result in actual difficulties or substantial hardship  
or injustice to the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City of Lincoln, Nebraska:  
That the requirement of the Final Plat of Aspen 5th Addition relating to  
the installation of street trees along the streets within said plat  
within four years of approval of the plat, is hereby waived to allow an  
additional two year period for the installation of ~~said improvement. of~~  
street trees and an additional one year period for the installation of  
sidewalks, except that sidewalks shall be constructed along the south  
side of Eagle Ridge Road between Beaver Creek Lane and Sugar Creek Road  
within 45 days.

All other conditions for approval of the Final Plat of Aspen 5th  
Addition shall remain in full force and effect.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp,  
Cook, McRoy, Svoboda, Werner; NAYS: Newman; ABSENT: Friendt.

APPROVING AN EXTENSION OF TIME FOR INSTALLATION OF SIDEWALKS AND STREET TREES  
IN THE ASPEN 6TH ADDITION FINAL PLAT ON PROPERTY GENERALLY LOCATED AT  
CARMEN DRIVE AND EAGLE RIDGE ROAD. (In connection w/03R-143) - PRIOR to  
meeting:

WERNER Moved to amend Bill No. 03R-144 in the following manner:  
Line 17 should read: the plat, is hereby waived to allow an  
additional two year period for the installation ~~of said improvement of~~  
street trees and an additional one year period for the installation of  
sidewalks, except that sidewalks shall be constructed along the south  
side of Eagle Ridge Road between Beaver Creek Lane and Sugar Creek Road  
within 45 days.

Seconded by Cook & carried by the following vote: Camp, Cook,  
McRoy, Svoboda, Werner; NAYS: Newman; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Ken Svoboda, who  
moved its adoption:

A-82132 WHEREAS, the Final Plat of Aspen 6th Addition was previously



approved by the City of Lincoln; and

WHEREAS, the conditions of approval of said Final Plat included the requirement that the subdivider install sidewalks and street trees along all streets within said Aspen 6th Addition Final Plat within four years of approval of said Plat; and

WHEREAS, applicant has requested a modification to waive said requirement pursuant to § 26.31.010 of the Lincoln Municipal Code to allow a two year extension of time for the installation of said improvements; and

WHEREAS, the Planning Commission has reviewed said request and has recommended denial of the extension of time for installation of sidewalks and approval of the extension of time to install street trees; and

WHEREAS, the City Council finds that the strict application of all requirements would result in actual difficulties or substantial hardship or injustice to the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City of Lincoln, Nebraska:

That the requirement of the Final Plat of Aspen 6th Addition relating to the installation of street trees along the streets within said plat within four years of approval of the plat, is hereby waived to allow an additional two year period for the installation of ~~said improvement~~ of street trees and an additional one year period for the installation of sidewalks, except that sidewalks shall be constructed along the south side of Eagle Ridge Road between Beaver Creek Lane and Sugar Creek Road within 45 days.

All other conditions for approval of the Final Plat of Aspen 6th Addition shall remain in full force and effect.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: Newman; ABSENT: Friendt.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF FRONTIER MEADOWS CONSISTING OF 3 RESIDENTIAL LOTS WITH WAIVERS TO THE REQUIRED STREET PAVING AND STORMWATER DRAINAGE ON PROPERTY GENERALLY LOCATED AT OLD CHENEY ROAD AND FRONTIER ROAD. (In connection w/03-92) - PRIOR to reading:

COOK Moved to delay action on Bill No. 03R-145 for two weeks to 6/23/03.

Seconded by Werner & carried by the follow vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING AN ANNEXATION AGREEMENT BETWEEN PINE LAKE DEVELOPMENT L.L.C., STANLEY L. PORTSCHE AND GRACE A. PORTSCHE, MID-AMERICAN UNION CONFERENCE ASSOCIATION OF SEVENTH DAY ADVENTISTS, AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 41 ACRES OF PROPERTY GENERALLY LOCATED WEST OF 84<sup>TH</sup> STREET AND NORTH OF HIGHWAY 2, AND RESCINDING RESOLUTION NO. A-82079. (In connection w/03-21, 03-22, 03R-26, 03R-27) - PRIOR to reading:

COOK Moved to amend Bill No. 03R-146 in the following manner:

(a) That the (Substitute No. 3) Pine Lake Plaza Conditional Annexation and zoning Agreement be amended by amending Section 23 to add the following paragraph at the end of that Section:

City acknowledges that City has included substantially identical provisions regarding Impact Fee Facilities in other "Conditional Annexation and Zoning Agreements" which also included this reservation of rights to sue the City to determine the validity of such provisions. If a lawsuit is brought challenging such provisions under any other "Conditional Annexation and Zoning Agreement" and the provisions in such agreement which relate to Impact Fee Facilities are held invalid due to lack of authority to require such provisions in exchange for annexation and/or the change of zone, the City agrees that Owner shall be entitled to the benefit of such judgment without the necessity of bringing a separate lawsuit challenging the Impact Fee Facility provisions in this Agreement.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption as amended:

A-82133 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled (Substitute No. 3) Pine Lake Plaza Conditional Annexation and Zoning Agreement (Annexation Agreement), which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Stanley L. Portsche and Grace

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A. Portsche, and Mid-American Union Conference Association of Seventh Day Adventists (Owner), outlining certain conditions and understandings between the City and said Owner relating to the annexation of approximately 41 acres of property generally located west of 84th Street and north of Highway 2 is approved.

BE IT FURTHER RESOLVED that Resolution No. A-82079 approving the agreement titled (Substitute No. 2) Pine Lake Plaza Conditional Annexation and Zoning Agreement is hereby repealed and rescinded.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, McRoy, Svoboda, Werner; NAYS: Cook; ABSTAINING: Newman; ABSENT: Friendt.

ADOPTING A CITY OF LINCOLN POLICY FOR MAINTAINING A PRUDENT MINIMUM GENERAL FUND RESERVE - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82134 A RESOLUTION establishing guidelines in providing for an unreserved fund balance in the City's General Fund.

WHEREAS, the Fund Balance is the reserve of the General Fund of the City. The General Fund is the primary operating fund for the City. The General Fund is defined as including the following funds from the City's General Ledger: General Fund, Community Improvement Financing Fund and Donations Fund. This policy is intended to provide for unreserved amounts only. Fund Balance that is reserved for such items as encumbrances, inventories and prepaid items is not included; and

WHEREAS, the definition of reserved and unreserved fund balances shall be consistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board or its successor; and

WHEREAS, the designations in this policy should be included in future year-end financial statements in the notes, specifically, in Significant Accounting Policies; and

WHEREAS, the policy is intended to address the primary consideration of meeting unanticipated short-term cash flow needs of the government and the long term goal of managing General Fund balances in a manner that at all times preserves the City's ability to meet its cash flow needs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that the General Fund unreserved fund balances shall be designated for the following purposes and in the amounts described below:

1. To meet excess cash flow needs of the City, a fund balance designation of not less than 20% of the ensuing years General Fund budget should be set aside as an unrestricted reserve.
2. The Mayor and Finance Director, as part of the annual budget process, shall prepare an analysis of this policy. The analysis will be based on the latest audited financial statements and updated to the time the budget is presented. This analysis will be presented in the final budget document.
3. Any fund balances in excess of the current unreserved fund balance less 15% of the budget projected out for 5 years may be allocated over the upcoming five year forecast period as a funding source.
4. Shortages from the requirements of this policy shall be built up through the budget process. Shortage is defined as having less than the minimum policy requirements at fiscal year-end. Shortage may also be defined as having a projection at budget time that would indicate the requirements will not be met at the current year-end. Any shortage will be calculated and this amount will be amortized over the next three fiscal years.
5. The Finance Director shall, as part of the annual audit and financial statement preparation process, see that the designations are made as required by this policy.

Introduced by Ken Svoboda

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, JUNE 23, 2003 @ 1:30 P.M. FOR THE MGR. APP. OF CRYSTAL J. MCCARTHY FOR B & R STORES INC DBA RUSS'S MARKET LOCATED AT 6300 HAVELOCK AVE. - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82135 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for mon., June 23, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE , for the purpose of considering the Manager Application of Crystal J. McCarthy for B & R Stores dba Russ's Market located at 6300 Havelock Ave.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

APPROVING THE HUB HALL HEIGHTS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN HIGHWAY 15, INC., CHARLES GARY GATELY, TRUSTEE, AND THE CITY OF LINCOLN OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 142 ACRES OF LAND GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND NORTH OF HOLDREGE STREET. (In connection w/03R-108, 03R-109, 03-70, 03-71) - PRIOR to reading:

WERNER Moved to amend Bill No. 03R-100 in the following manner:

(a) That the Hub Hall Heights Conditional Annexation and Zoning Agreement be amended by amending Section 22 to add the following paragraph at the end of that Section:

City acknowledges that City had included substantially identical provisions regarding Impact Fee Facilities in other "Conditional Annexation and Zoning Agreements" which also included this reservation of rights to sue the City to determine the validity of such provisions. If a lawsuit is brought challenging such provisions under any other "Conditional Annexation and Zoning Agreement" and the provisions in such agreement which relate to Impact Fee Facilities are held invalid due to lack of authority to require such provisions in exchange for annexation and/or the change of zone, the City agrees that Owner shall be entitled to the benefit of such judgment without the necessity of bringing a separate lawsuit challenging the Impact Fee Facility provisions in this Agreement.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; Nays: None; ABSTAIN: Newman; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82137 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the agreement titled Hub Hall Heights Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Charles Gary Gately, Trustee, and Highway 15, Inc. (Owners), outlining certain conditions and understandings between the City and said Owners relating to the annexation of approximately 142 acres of property generally located northeast of N.W. 48th Street and W. Holdrege Street is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owners.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owners.

Introduced by Terry Werner

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1995 - APPLICATION OF HUBERT H. HALL TO DEVELOP HUB HALL HEIGHTS COMMUNITY UNIT PLAN FOR 869 DWELLING UNITS ON PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (In connection w/03-70, 03-71, 03R-109, 03R-110) - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82138 WHEREAS, Charles Gary Gately, Trustee, and Highway 15, Inc. have submitted an application designated as Special Permit No. 1995 for authority to develop Hub Hall Heights Community Unit Plan for 869 dwelling

units on property generally located northeast of N.W. 48th Street and W. Holdrege Street, and legally described to wit:

Lot 14 and a portion of Lot 32 I.T., located in the Southeast Quarter of Section 18, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska and wholly described as follows:

Referring to the southwest corner of the Southeast Quarter of said Section 18; thence in a northerly direction, along the west line of the Southeast Quarter of said Section 18, on an assumed bearing of north 00 degrees 45 minutes 21 seconds west, for a distance of 846.58 feet to the point of beginning; thence continuing in a northerly direction, along the west line of the Southeast Quarter of said Section 18, on an assumed bearing of north 00 degrees 45 minutes 21 seconds west, for a distance of 1502.37 feet to the northwest corner of said Lot 32; thence north 88 degrees 49 minutes 52 seconds east along the north line of said Lot 32, for a distance of 2639.59 feet to the northeast corner of said Lot 32; thence south 00 degrees 50 minutes 46 seconds east along the east line of the Southeast Quarter of said Section 18, for a distance of 2347.52 feet to the southeast corner of the Southeast Quarter of said Section 18; thence south 88 degrees 48 minutes 02 seconds west along the south line of the Southeast Quarter of said Section 18, for a distance of 1644.57 feet; thence north 01 degrees 11 minutes 58 seconds west, for a distance of 98.76 feet; thence north 55 degrees 35 minutes 05 seconds west, for a distance of 90.94 feet; thence north 38 degrees 08 minutes 59 seconds west, for a distance of 90.94 feet; thence north 20 degrees 42 minutes 53 seconds west, for a distance of 90.94 feet; thence north 04 degrees 39 minutes 24 seconds west, for a distance of 81.24 feet; thence north 73 degrees 00 minutes 50 seconds west, for a distance of 76.38 feet; thence north 64 degrees 18 minutes 00 seconds west, for a distance of 73.59 feet; thence north 61 degrees 12 minutes 11 seconds west, for a distance of 241.00 feet; thence north 28 degrees 47 minutes 49 seconds east, for a distance of 110.00 feet; thence north 61 degrees 12 minutes 11 seconds west, for a distance of 50.00 feet; thence south 28 degrees 47 minutes 49 seconds west, for a distance of 110.00 feet; thence north 61 degrees 12 minutes 11 seconds west, for a distance of 247.65 feet; thence north 50 degrees 02 minutes 26 seconds west, for a distance of 86.46 feet; thence north 35 degrees 50 minutes 24 seconds west, for a distance of 86.53 feet; thence south 89 degrees 14 minutes 39 seconds west, for a distance of 109.34 feet to the point of beginning; said property contains 129.81 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Charles Gary Gately, Trustee, and Highway 15, Inc., hereinafter referred to as "Permittee", to develop Hub Hall Heights Community Unit Plan for 869 dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a community unit plan consisting of 869 dwelling units.

2. Before receiving building permits:

- a. The Permittee must submit a revised and reproducible plan.
- b. The construction plans must conform to the approved plans.
- c. Final plats within the area of this special permit must be approved by the City.

4. Before occupying the dwelling units, all development and construction must be completed in conformance with the approved plans.

5. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.

6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, their successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Terry Werner

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt.

APPROVING AND ACCEPTING THE PRELIMINARY PLAT OF HUB HALL HEIGHTS FOR 356 LOTS AND 5 OUTLOTS WITH WAIVERS TO MODIFY THE LAND SUBDIVISION ORDINANCE TO ALLOW BLOCK LENGTHS TO EXCEED STANDARDS AND PERMIT DOUBLE FRONTAGE LOTS, ON PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (In connection w/03-70, 03-71, 03R-108, 03R-110) - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82139 WHEREAS, **Charles Gary Gately, Trustee, and Highway 15, Inc.** has submitted the preliminary plat of **HUB HALL HEIGHTS ADDITION** for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated February 21, 2003, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of **HUB HALL HEIGHTS ADDITION**, located northeast of N.W. 48th Street and W. Holdrege Street as submitted by **Charles Gary Gately, Trustee, and Highway 15, Inc.** is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirement of § 26.23.130(a) of the Lincoln Municipal Code that block length not exceed 1320 feet between cross streets is waived in

Block 4.

2. The requirement of § 26.23.140(e) of the Lincoln Municipal Code that there will be no lots with double frontage is hereby waived to allow Lot 1, 2, and 3, Block 8, within this subdivision to have double frontage.

Introduced by Terry Werner

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt.

APPROVING THE PINECREST CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND PATRICK MOOBERRY RELATING TO THE ANNEXATION OF APPROXIMATELY 50 ACRES OF PROPERTY GENERALLY LOCATED AT N. 14TH STREET AND MORTON ROAD. (In connection w/03-77, 03R-116, 03R-117)- PRIOR to reading:

SVOBODA Moved to amend Bill No. 03R-123 in the following manner:

(a) That the Pinecrest Conditional Annexation and Zoning Agreement be amended by amending Section 19 to add the following paragraph at the end of that Section:

City acknowledges that City had included substantially identical provisions regarding Impact Fee Facilities in other "Conditional Annexation and Zoning Agreements" which also included this reservation of rights to sue the City to determine the validity of such provisions. If a lawsuit is brought challenging such provisions under any other "Conditional Annexation and Zoning Agreement" and the provisions in such agreement which relate to Impact Fee Facilities are held invalid due to lack of authority to require such provisions in exchange for annexation and/or the change of zone, the City agrees that Owner shall be entitled to the benefit of such judgment without the necessity of bringing a separate lawsuit challenging the Impact Fee Facility provisions in this Agreement.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAIN: Newman; ABSENT: Friendt.

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82140 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Pinecrest Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Patrick Mooberry, outlining certain conditions and understandings between the City and said Owner relating to the annexation of approximately 50 acres of property generally located at N. 14th Street and Morton Road is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, McRoy, Svoboda, Werner; NAYS: Cook; ABSTAINING: Newman; ABSENT: Friendt.

SPECIAL PERMIT 1991 - APPLICATION OF PATRICK MOOBERRY TO DEVELOP PINECREST COMMUNITY UNIT PLAN CONSISTING OF 288 DWELLING UNITS, WITH WAIVERS TO THE REQUIRED RECREATION FACILITY, LOT WIDTH, LOT AREA, REDUCTION OF THE FRONT YARD SETBACK, CLUSTER DENSITY FOR THE MULTI-FAMILY AREA, AND TO ALLOW A MAXIMUM HEIGHT OF 40' ON LOT 1, BLOCK 1 IN THE MULTI-FAMILY AREA, ON PROPERTY GENERALLY LOCATED AT N. 14TH STREET AND MORTON ROAD. (In connection w/03-77, 03R-117, 03R-123) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82141 WHEREAS, Patrick Mooberry has submitted an application designated as Special Permit No. 1991 for authority to develop Pinecrest Community Unit Plan consisting of 188 dwelling units on property located at North 14th Street and Morton Road, and legally described to wit:

A portion of Lot 5, a portion of Lot 6, Grove Park Subdivision, Lots 1 - 38 inclusive, Clason and Fletchers Subdivision, Lot 24 I.T., Lot 25 I.T., vacated Orchard Road, vacated east-west alley, and the vacated unnamed right-of-way adjacent to Lots 1 - 16 Clason and Fletchers Subdivision; all located in the Northeast Quarter of Section 2, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

Commencing at the southeast corner of the said Northeast Quarter; thence west along the south line of said Northeast Quarter, on an assumed bearing of north 89 degrees 37 minutes 50 seconds west, a distance of 33.00 feet to the point of beginning; thence continuing north 89 degrees 37 minutes 50 seconds west, along the south line of said Northeast Quarter, a distance of 1,320.85 feet to a point; thence north 00 degrees 07 minutes 06 seconds west, a distance of 33.00 feet to the southeast corner of said Lot 16, Clason and Fletchers Subdivision; thence north 89 degrees 37 minutes 50 seconds west, along the south line of said Lots 16 - 23, Clason and Fletchers Subdivision, a distance of 299.97 feet to the southwest corner of said Lot 23, Clason and Fletchers Subdivision; thence north 00 degrees 01 minutes 42 seconds east, along the west line of said Lots 23 - 38, Clason and Fletchers Subdivision, a distance of 598.12 feet to the northwest corner of lot 38, Clason and Fletchers Subdivision; thence north 89 degrees 40 minutes 04 seconds west, along the south line of said Lot 5, Grove Park Subdivision, a distance of 197.55 feet to a point on the southerly line of Interstate Highway 80 right-of-way; thence north 55 degrees 14 minutes 13 seconds east, along the southerly line of Interstate Highway 80 right-of-way, said line being a north line of said Lot 5, a north line of Lot 6, a northwest line of Lot 24 I.T., and the north line of said Lot 25 I.T., a distance of 2,174.36 feet to the north corner of said Lot 25 I.T.; thence south 03 degrees 36 minutes 47 seconds east, along an east line of said Lot 25 I.T., a distance of 446.70 feet to a point that is 33.00 feet west of the east line of said Northeast Quarter; thence south 00 degrees 08 minutes 47 seconds east, along an east line of said Lot 25 I.T., and the east line of said Lot 24 I.T., said line also being 33.00 feet west of and parallel to the east line of said Northeast Quarter, a distance of 1,436.70 feet to the point of beginning; said tract contains a calculated area of 2,159,615 square feet or 49.58 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this Community Unit Plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Patrick Mooberry, hereinafter referred to as "Permittee", to develop Pinecrest Community Unit Plan consisting of 288 dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said Community Unit Plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 288 dwelling units.
2. This permit approves modifications to the Design Standards to allow the maximum height of the multi-family buildings from 35 feet to 40 feet; lot area; lot width; a reduction of the front yard setback for the residential identification sign; and to allow cluster density of more than 15 dwelling units per acre.
3. Before receiving building permits:
  - a. The Permittee must submit an acceptable, revised final plan and six copies.
  - b. The construction plans must conform to the approved plans.
4. Before occupying the dwelling units, all development and construction must be completed in conformance with the approved plans.
5. All privately-owned improvements shall be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.
6. The site plan approved by this permit shall be the basis for

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all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements and similar matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, his successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PINECREST CONSISTING OF 201 LOTS, WITH WAIVERS OF THE DESIGN STANDARDS TO EXCEED SANITARY SEWER DEPTH AND FLOWS, MODIFICATION OF THE LAND SUBDIVISION ORDINANCE TO PERMIT NON-PERPENDICULAR LOT LINES, TO EXCEED LOT WIDTH-TO-DEPTH RATIO, TO ELIMINATE THE STREET CONNECTION TO THE WEST, TO ALLOW BLOCK LENGTHS LONGER THAN 1320 FEET, AND TO WAIVE THE REQUIRED PEDESTRIAN WAYS AND DETENTION REQUIREMENTS, ON PROPERTY GENERALLY LOCATED AT N. 14TH STREET AND MORTON ROAD. (In connection w/03-77, 03R-123, 03R-116) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82142 WHEREAS, Patrick Mooberry has submitted the preliminary plat of **PINECREST** for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated April 4, 2003, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the preliminary plat of **PINECREST**, located at North 14th Street and Morton Road as submitted by Patrick Mooberry is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirement of the Design Standards that sanitary sewer follow street grades and not exceed certain maximum depth are waived to allow sewer lines exceeding maximum allowed depth and flows.

2. The requirement of Section 26.23.140 of the Lincoln Municipal Code that the side lines of any lot shall be at right angles to the street, and that the lot width to depth ratio be a maximum of three times its width, is hereby waived for those lots as shown on the preliminary plat.

3. The required street connection to the west is waived within this plat.

4. The requirement of Section 26.23.130 of the Lincoln Municipal Code that block length shall not exceed 1,320 feet is hereby waived.

5. The requirement of Section 26.23.120 of the Lincoln Municipal Code that a pedestrian way easement be provided as shown on the preliminary plat is hereby waived.

6. The requirement of the Design Standards for a flow liner in the storm sewer detention pond is waived.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt.

**PETITIONS & COMMUNICATIONS**

APP. OF ST. JOHN'S CATHOLIC CHURCH TO CONDUCT A LOTTERY IN THE CITY OF LINCOLN FOR THE PERIOD OF JUNE 21, 2003 THROUGH SEP. 21, 2003 - CLERK requested a motion to set the hearing date for Mon., June 16, 2003 @ 1:30 p.m.



SVOBODA So moved.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

FORMAL PETITION FOR ORNAMENTAL LIGHTING DISTRICT #286 FOR 27<sup>TH</sup> STREET TO 20<sup>TH</sup> STREET, VAN DORN STREET TO HIGH STREET, SUBMITTED BY MATTHEW AND PAIGE ROBERTS - CLERK presented said petition which was referred to the Law Dept.

#### REPORTS OF CITY OFFICERS

INVESTMENT OF FUNDS FOR THE WEEK OF MAY 26 THROUGH MAY 30, 2003 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82136 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Ken Svoboda

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

REQUEST OF PUBLIC WORKS TO SET THE HEARING DATE OF MONDAY, JUNE 30, 2003, AT 5:30 P.M. ON THE FOLLOWING SPECIAL ASSESSMENT DISTRICT:

**03-93** To provide authority to pave the east/west alley, South 48<sup>th</sup> Street to south 49<sup>th</sup> Street, Lowell to Meredeth Streets and assess the cost thereof against the benefitted properties -

CLERK requested a motion to set the date:

SVOBODA So moved.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON JUNE 2, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT OF CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF APRIL, 2003: ALLTEL SYSTEMS OF THE MIDWEST, INC.; ALLTEL COMMUNICATIONS OF NEBRASKA, INC.; ALLTEL NEBRASKA, INC.; INTELICALL OPERATOR SERVICE; ACN COMMUNICATIONS SERVICES, INC.; ONSTAR; TOUCH AMERICA; TRANS NATIONAL COMM. INTERNATIONAL; VIRGIN MOBILE USA; GLOBAL CROSSING TELECOMMUNICATIONS, INC.; AT&T COMM. OF MIDWEST; BROADWING TELECOMMUNICATIONS; PRIMUS TELECOMMUNICATIONS, INC.; BELL ATLANTIC COMMUNICATIONS, INC.; VERIZON SELECT SERVICES, INC.; QWEST COMMUNICATIONS, CORP.; WORKING ASSETS FUNDING SERVICE INC.; CRICKET COMMUNICATIONS, INC.; AFFINITY NETWORK, INC.; ASSOCIATION ADMINISTRATORS, INC.; TELCO DEVELOPMENT GROUP DE INC.; SPRINT COMMUNICATION COMPANY LIMITED PARTNERSHIP; WORLDXCHANGE CORP.; LIGHTYEAR COMMUNICATIONS, INC.; EXCEL TELECOMMUNICATIONS, INC.; LDMI TELECOMMUNICATIONS, INC.; NOSVA LIMITED PARTNERSHIP; GTC TELECOM, INC.; GLYPHICS COMMUNICATIONS, INC.; GLOBALCOM, INC.; ZONE TELECOM, INC.; COMDATA TELECOMMUNICATIONS, INC.; MCLEOD USA TELECOMMUNICATIONS SERVICES, INC.; MCI WORLDCOM NETWORK SERVICE, INC.; XO LONG DISTANCE SERVICES, INC.; TRACFONE WIRELESS, INC.; TELIGENT SERVICES, INC.; ALYON TECHNOLOGIES, INC.; UNITED SYSTEMS ACCESS TELECOM; QUANTUM SHIFT COMMUNICATIONS; T-NETIX TELECOM SERVICES, INC.; STAR NUMBER, INC.; AND IBM GLOBAL SERVICES-NS DIV. - CLERK presented said report which was placed on file in the Office of the City Clerk. **(20)**

REPORT OF LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR THE MONTH OF MAY, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(8-71)**

#### ORDINANCES - 1<sup>ST</sup> READING

APPROVING A LEASE/PURCHASE BETWEEN THE CITY AND THE LOWEST SUCCESSFUL BIDDER FOR A PORTABLE VIDEO MESSAGE BOARD AT PERSHING AUDITORIUM. (Request 2<sup>nd</sup> & 3<sup>rd</sup> Readings 6/16/03) - CLERK read the following ordinance, introduced by Ken Svoboda, approving a lease/purchase between the City and the lowest successful bidder for a portable video message board at Pershing Auditorium, the first time.

ORDINANCES - 3RD READING

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 142 ACRES OF PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (In connection w/03-71, 03R-108, 03R-109, 03R-110) - CLERK read the following ordinance, introduced by Ken Svoboda, amending the corporate limits of the city by annexing approximately 142 acres of property generally located northeast of N.W. 48<sup>th</sup> Street and W. Holdrege Street, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt. The ordinance being numbered **#18188** is recorded in Ordinance Book No.259, Page

CHANGE OF ZONE 3390 - APPLICATION OF HUBERT H. HALL FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF N.W. 48TH STREET AND W. HOLDREGE STREET. (In connection w/03-70, 03R-108, 03R-109, 03R-110) - CLERK read the following ordinance, introduced by Ken Svoboda, for a change of zone 3390, the application of Hubert H. Hall for a change of zone from AG Agricultural District to R-3 residential district on property generally located northeast of N.W. 48<sup>th</sup> Street and W. Holdrege Street, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt. The ordinance being numbered **#18189** is recorded in Ordinance Book No.259, Page

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 50 ACRES OF PROPERTY GENERALLY LOCATED AT N. 14TH STREET AND MORTON ROAD. (In connection w/03R-123, 03R-116, 03R-117) - CLERK read the following ordinance, introduced by Jon Camp, amending the corporate limits of the city by annexing approximately 50 acres of property generally located at N. 14<sup>th</sup> Street and Morton Road, the third time.

COOK Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: None; ABSTAINING: Newman; ABSENT: Friendt. The ordinance being numbered **#18190** is recorded in Ordinance Book No.259, Page

MISCELLANEOUS BUSINESS

PENDING -

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROX. 39.9 ACRES OF PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 84TH ST. & HWY. 2. (In connection w/03-22, 03R-25, 03R-26, 03R-27);

CHANGE OF ZONE 3373 - APP. OF PINE LAKE DEVELOPMENT, L.L.C. FOR A CHANGE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL & O-3 OFFICE PARK ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 84TH ST. & HIGHWAY 2. (In connection w/03-21, 03R-25, 03R-26, 03R-27);

ACCEPTING & APPROVING THE PRELIMINARY PLAT OF PINE LAKE PLAZA FOR NINE RESIDENTIAL LOTS, 12 LOTS FOR OFFICE/COMMERCIAL & THREE OUTLOTS, WITH WAIVERS TO THE REQUIRED INTERSECTION PLATFORMS, NON-RADIAL OR PERPENDICULAR SIDE LOT LINES, RECONSTRUCTION OF PINE LAKE RD. TO URBAN SECTION, TURNING LANE DEPTH, SEWER SYSTEM RUNNING OPPOSITE STREET GRADES & DEEPER THAN STANDARDS, SIDEWALKS, MAXIMUM BLOCK LENGTH, & PEDESTRIAN WAY EASEMENT, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 84TH ST. & HWY. 2. (In connection w/03-21, 03-22, 03R-26, 03R-27);

USE PERMIT 145 - APP. OF PINE LAKE DEVELOPMENT L.L.C. TO DEVELOP 192,900 SQ. FT. OF OFFICE & COMMERCIAL FLOOR SPACE, WITH A WAIVER OF MINIMUM YARD REQUIREMENTS, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 84TH ST. & HWY. 2. (In connection w/03-21, 03-22, 03R-25, 03R-26)

SVOBODA Moved to waive Council rules to have action on these items on this date.

Motion died for lack of a second.

COOK Moved to remove Bill No. 03-21, 03-22, 03R-26 and 03R-27 from pending for action in one week on 6/16/03.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

SVOBODA Moved to extend the Pending List to June 16, 2003.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

#### UPCOMING RESOLUTIONS -

SPECIAL PERMIT 2015 - APPLICATION OF NEBRASKA BROADCASTING, L.L.C. TO ERECT A 220' BROADCAST TOWER FOR AM BAND RADIO, WITH A WAIVER OF THE LANDSCAPE SCREENING REQUIREMENTS, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH 33<sup>RD</sup> STREET AND GLADSTONE STREET.

COOK Moved to re-advertise Bill No. 03R-150 with the correction of a 227' foot broadcast tower.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

SVOBODA Moved to approve the resolutions to have Public Hearing on June 16, 2003.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

#### ADJOURNMENT

4:16 P.M.

SVOBODA Moved to adjourn the City Council meeting of June 9, 2003.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Friendt.

So ordered.

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Joan Ross, City Clerk

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Glenna Graupmann, Senior Office Assistant

